

REMARKS/ARGUMENTS

The rejections presented in the Office Action dated November 19, 2007 (hereinafter Office Action) have been considered, and reconsideration of the pending claims and allowance of the application in view of the present response is respectfully requested.

The basis for maintaining the rejection of at least Claims 1-8, 22 and 23 is incorrect. For example, at page three of the Office Action it is asserted that limitations directed to handover being applied *only when a user interface component is active* “are not recited in the rejected claims”. In direct contrast to this assertion, independent Claim 1 recited “applying, on the basis of the checking, the handover algorithm only when the current state of the user interface component is active” (emphasis added). The assertion that such limitations are not recited in the claims ignores the limitations of Claim 1 and is clearly mistaken. Applicant maintains that the prior art rejections based upon Kubosawa of at least Claims 1-8, 22 and 23 were improper and should not have been maintained.

However, in an effort to facilitate prosecution and without acquiescing to characterizations of the asserted art, Applicant’s claimed subject matter, or to the applications of the asserted art or combinations thereof to Applicant’s claimed subject matter, Applicant has amended each of the independent claims to indicate that in response to the user interface component being inactive, the handover algorithm is prevented from detecting a need for the mobile terminal to change to another channel. Support for these changes may be found in the Specification, for example, at paragraphs [0008], [0009], and [0021]; therefore, the changes do not introduce new matter. Each of the pending claims is believed to be further patentable over the asserted references for the reasons set forth below.

Each of the § 103(a) rejections is primarily based upon the teachings of U.S. Publication No. 2002/0183062 by Kubosawa (hereinafter “Kubosawa”), but Kubosawa fails to teach the asserted claim limitations and instead teaches away from the claimed invention. For example, when no input is detected in step S9 of Fig. 2 (asserted as corresponding to the claimed inactive state of a user interface component), Kubosawa’s handover algorithm continues, *e.g.*, the algorithm continues to measure communication quality at step S4 for the handover operation. In contrast, the claimed invention is directed to preventing detecting a

need for a terminal to change channels when the interface is inactive, as claimed in each of the independent claims. Since Kubosawa's handover operation illustrated in Fig. 2 continues to be performed even when no input is detected at step S9, Kubosawa does not teach preventing determining a need for changing channels, as claimed. Without correspondence to each of the claimed limitations, the § 103(a) rejections would be improper. Applicant accordingly requests that each of the rejections be withdrawn.

Moreover, as discussed previously Kubosawa teaches that when handover is needed and possible, handover is executed (paragraph [0032]). There is no indication that Kubosawa applies, or does not apply, a handover algorithm when a user interface component has been checked to be active. Rather, Kubosawa provides an opportunity for a user to predetermine the type of handover that may be performed such that if handover is determined to be necessary (based upon quality measurements) and the type of predetermined handover is possible (the predetermined system is available for handover), handover is executed. Steps S8 and S9 of Kubosawa's Fig. 2 are not directed to determining whether or not a handover algorithm is executed, but rather, are steps carried out during a handover algorithm execution. More specifically, step S9 merely checks for user input and if no input is received, the algorithm reverts to measuring the communication quality at step S3.

Also, contrary to the assertions of the Office Action, the user input detected at step S9 does not correspond to the claimed active state of an interface component. The Office Action asserts at pages 4-5 that "if there is input at step S9, it executes the handover". However, the input at S9 may be user instructions for "waiting" or "disconnection" such that handover does not occur (terminal waits to apply handover or communication ends) (paragraphs [0056-0057]). Thus, the Office Action would consider the interface component to be active (input received at step S9) but the terminal would not apply the handover algorithm. Further, since execution of handover is not dependent upon user input in step S9 (Kubosawa will automatically execute handover when the predetermined type of handover in step S1 is possible), Kubosawa does not teach that handover is applied only when a user interface component is active as asserted by the Office Action at page five. The receipt of

user input at step S9 does not correspond with the claimed active and inactive states. Without a presentation of correspondence to each of the claimed limitations, the prior art rejections are improper.

In addition, the teachings of Wong directed to active and inactive states fail to correspond to the limitations absent from Kubosawa and directed to preventing a handover algorithm from determining a need for handover based on checking whether a user interface component is active or inactive. As neither Kubosawa nor Wong teaches at least these limitations, any combination thereof must also fail to teach such limitations. Without correspondence to each of the claim limitations, the § 103(a) rejections would be improper, and Applicant requests that each of the rejections be withdrawn.

Dependent Claims 2, 8, 10-12, 19 and 22-28 depend from independent Claims 1, 9 and 21, respectively, and each of these dependent claims also stands rejected under 35 U.S.C. § 103(a) as being unpatentable over the above-discussed combination of Kubosawa and Wong. While Applicant does not acquiesce to any particular rejections to these dependent claims, including any assertions concerning descriptive material, obvious design choice and/or what may be otherwise well-known in the art, these rejections are moot in view of the remarks made in connection with independent Claims 1, 9 and 21. These dependent claims include all of the limitations of their respective base claims and any intervening claims, and recite additional features which further distinguish these claims from the cited references. "If an independent claim is nonobvious under 35 U.S.C. §103, then any claim depending therefrom is nonobvious." MPEP § 2143.03; *citing In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). Therefore, dependent Claims 2, 8, 10-12, 19 and 22-28 are also patentable over Kubosawa and Wong.

With respect to the § 103(a) rejections of dependent Claims 3-7, 13-18 and 20 based upon Kubosawa and Wong in view of GB 2289191 by Motorola; U.S. Patent No. 6,178,388 to Claxton; U.S. Publication No. 2004/0204123 by Cowsky, III *et al.*; U.S. Publication No. 2004/0248594 by Wren, III; and U.S. Patent No. 6,871,074 to Harris *et al.*, respectively, Applicant respectfully traverses. As discussed above, Kubosawa fails to correspond to the limitations of independent Claims 1 and 9 (from which Claims 3-7, 13-18 and 20 depend).

The further reliance on these additional teachings does not overcome the above-discussed deficiencies in Kubosawa. Thus, the asserted combinations of these teachings with the teachings of Kubosawa do not teach each of the claimed limitations of dependent Claims 3-7, 13-18 and 20, and each of the § 103(a) rejections should be withdrawn.

It should also be noted that Applicant does not acquiesce to the Examiner's statements or conclusions concerning what would have been inherent, obvious to one of ordinary skill in the art, obvious design choices, common knowledge at the time of Applicant's invention, officially noticed facts, and the like. Applicant reserves the right to address in detail the Examiner's characterizations, conclusions, and rejections in future prosecution.

Authorization is given to charge Deposit Account No. 50-3581 (KOLS.083PA) any necessary fees for this filing. If the Examiner believes it necessary or helpful, the undersigned attorney of record invites the Examiner to contact the undersigned attorney to discuss any issues related to this case.

Respectfully submitted,

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